INTERVIEW WITH OCU PRESIDENT TOM J. MCDANIEL

APRIL 17, 2009

KEK: Hi, this is Karen Kalnins, I’m a Reference Librarian at the Oklahoma City University Law Library and today is Friday, April 17, 2009. It’s a little bit past 1 o’clock in the afternoon and I am here in Oklahoma City, Oklahoma with President Tom McDaniel. He is the President of Oklahoma City University and this interview, well today we’ll be doing an interview with President McDaniel as part of the broader oral history project that is being sponsored by the Oklahoma City University Law Library. As a part of that project we are going throughout the State of Oklahoma and interviewing attorneys and judges and asking them about their experiences and the Oklahoma courts. So, welcome President McDaniel.

TJM: Glad to be here Karen.

KEK: Great, I was so pleased when you agreed to this interview.

TJM: Well I’m glad to do it.

KEK: Great, well what drew you to the law?

TJM: I grew up in rather modest circumstances in a small rural town and my father worked for the State and he had a very close personal friend who was a lawyer. And this fellow suffered, was in an accident, the lawyer, and was paralyzed from the waist down. And my father told me many times when his experience was having come through the Depression; his experience was, “Boy, you’ve got to be sure you have a way to take care of yourself and your family because you know money is tight.” A lot of people that came through that 1929 era really, that was just the hallmark of their life really. And so he kept telling me, “You know it’s great to be a lawyer because he can practice law even though he is paralyzed and he can read, he can do his work and it’s interesting and it makes a great life for him.” And I don’t know, I guess some of that just stuck with me. Nobody in my family was a lawyer and so this fellow was one of the few lawyers that I knew in my small hometown.

KEK: Well, wonderful. Well, how did you prepare yourself for going to law school?

TJM: Well, I went to a relatively small public college in my home town of Alva, Oklahoma and I went there on a football scholarship and I played football and basketball but even though I was doing that; I had decided already that I wanted to be a lawyer. So, my goal was to take things that I thought would help me. I majored in business, had a minor in journalism, thinking maybe that would help me do better writing and I had a minor in speech. So, although I didn’t know any lawyers, my thought was, you need to know something about business, you need to be able to express yourself orally and you better be able to write if you’re going to be able to get through Law School. So, that’s what led me that way.
KEK: Absolutely. Well, great, wonderful. And where did you decide to go to law school?

TJM: I went to the University of Oklahoma. At that time there, and I guess today there still are, only three law schools in Oklahoma. My financial circumstances were such that it would have been really hard for me to think about going out of state. So, I really didn’t even apply anywhere else. By this time I was married, my wife and I met in college and we married when I was 20 and she was 19. And so my final year of undergraduate school we were married and so when I was going to go to law school it would be two of us leaving and two of us trying to live and all of that. So, finance was a big item for us and at that time Tulsa really was not an option for me just because I was more of a western Oklahoma guy. And at that time as well and just to set the timeframe, I graduated with my undergraduate degree in 1960. So, if you think about that you will recall that OCU was a fledgling Law School in those days and principally had a night program. And so my wife and I, she got a job working for the university architect and I got a job as bailiff working for the District Judge. And so I went to school and worked. And, it was a, that was our history.

KEK: That’s wonderful. What year did you enter into OU Law School?

TJM: Fall of 1960, graduated in the undergraduate Spring of ’60, started in the Fall.

KEK: And tell me about your experiences at the law school, there at OU.

TJM: Well, it is so much different than it is today and I would say better today. In some ways though, it was really great. We were, at that time, the law school was right on the north oval. If you’re familiar with the Norman campus, right, just out the backdoor to the student center. So, many of us ate together and had coffee together and in those days, I’m going to say it was easier to get admitted to law school and part of the process seemed to be that the first year, the first semester really was to weed out. So while they started the LSAT exam when I was in law school, it wasn’t used for admission purposes. So generally, if you had a degree and so forth you came in. So, they were much less prepared to judge your ability to be successful in law school. And I’m sure you’ve heard this from others but it is surely true that they said to us, “Shake hands with the person on your right and on your left because one of you is going to be gone.” And that was about our history. We had about 200 and we graduated about a 100. And so today, I think we find out a lot more about the students before they come and our effort is to make them successful, all of them. Whereas in those days it was more an effort the first year to weed out, to winnow down those that were in school.

KEK: Why do you think it’s so important to sort of do the weeding preemptively? To sort of look at the students before they enter into law school and then once they’re here, whether they’re here, at OU, or at Tulsa we do everything we can to help them succeed?
**TJM:** Well, I think it’s better among other things because if a person, if there’s a way of knowing that a person has little chance of success, I think it’s bad in two ways. It’s not good for that person because in many ways failure at anything marks you emotionally in some way or another. And so, failing at something is not a good thing and I don’t think that it is a good practice to be able to charge people what it costs to go and have them borrow money and go into debt, if they don’t have a reasonable chance of success. And then the second part of that would be, that there are a limited number of spaces, and to give a space to someone who virtually, who you can by testing and otherwise determine just doesn’t have a very good chance for success, takes up a space that someone else could have. And I also say this, even having said that, I know there are lots of people who are terrific lawyers who didn’t do well on the LSAT or maybe didn’t do as well in undergraduate grades. And you can’t measure self-discipline and you can’t measure by a test how hard they’ll try, how much effort they will put into it. So it’s certainly not a 100% system and a lot of people with great LSAT scores don’t do very well at all and others that don’t have very good scores do quite well. So it’s not a perfect system, but I think it’s better than we had.

**KEK:** Very good. Well tell me about, do you remember any of your professors while you were there at OU? Did any of them make an impression on you?

**TJM:** Oh yes. Interestingly enough I still see some of them. You would think that wouldn’t be possible, if you think about 1963 and we are now in 2009. There’s a professor down there named Leo Whinery who is a… I certainly remember the Dean of the Law School, Earl Sneed, he taught us. But the most memorable I had well two really. One they called “Roaring Joe Rarick,” he taught property. But the one that made the biggest impression on me was a fellow named George Fraiser and the fact that I can remember them after 40 some odd years is pretty good. George Fraiser was called “Tiger.” And it was his job to test your mettle. So he was the guy, and I suppose there’s someone like this in every law school. He taught civil procedure and equity. And he would stand you up in front of the whole class and cross examine you about cases. Is that contra distinguishable to the case on page 197? So he, everybody prepared for his class and everybody dreaded his class. But we all learned. So yes, I remember them well. An interesting story about that is one of my professors passed away during the semester. His name was Bill Bandy. He died in the middle of the semester. They had to bring in two people to teach his classes. He was teaching commercial transactions, and this may not ring a bell with you, but in those days Oklahoma had the negotiable instruments law and the legislature was considering adopting the Uniform Commercial Code. And Professor Bandy was the expert in the state on it and he died. So we had a class that was, half would take the Bar with NIL and half would take it under the Uniform Commercial Code. And they brought in a wonderful lawyer from Oklahoma City called Robert Cox to teach us. He did something I’ve never heard of a law professor doing before. He said “You guys here’s the deal” and I say guys because there probably weren’t but two women in law school while I was there. “I want to get you ready for the Bar and you guys
are all really worried about grades. Here’s what I’m going to do, I’m going to do my best to finish this semester. And I’m going to teach you everything I can about the Uniform Commercial Code to get you ready for that Bar exam and whatever grade you get is whatever your grade point is. We’re going to have a final, but what I’m going to tell you is that we are going to concentrate on learning the subject matter and don’t worry about the grade. Because whatever your average is that’s what I’m going to give you and I’m only going to concentrate on trying to help you.” And I’ve never heard of a professor doing that before.

KEK: I haven’t either. That’s a new one for me.

TJM: The other guy that came in to teach, I don’t know what other class he taught, might have been federal practice or something, was a guy named Lee West, who is now a Federal Judge here in Oklahoma City but he was a young lawyer here, smart young lawyer. He came in and taught us as well.

KEK: Wonderful, wonderful. Well you said previously that you were working at the time while you were going to Law School, you worked as a bailiff.

TJM: Yes.

KEK: Who was the judge that you worked for?

TJM: Elvin Brown.

KEK: And what kinds of things did you do for the Judge?

TJM: Well my assigned task was to always be available when jury trials were there. So I would be responsible for marshalling the jury. Part of it, getting them into the courtroom and back, getting them out to eat and all of that sort of thing, which was fascinating because I got to sit through all the jury trials. But as you would know, we didn’t have trials all the time, so I sat down in front of the Judge’s office and did whatever he asked me to do. But it was fantastic because he gave me access to his chambers and I could study there. So I could stay at night and study and have the statutes there, virtually a law library all to myself. So that was really, and a lot of, some of the people I studied with would come down and we would study in the Judge’s office. So that was, it was really terrific.

KEK: That is wonderful. What kinds of things did you learn working for the Judge?

TJM: The practical things. I didn’t have a good sense because I didn’t have lawyers in the family. I didn’t know much about practicing law. So watching the inner workings of the Court Clerk’s office, which was a very integral part of what the Judge did, and that relationship was a good one. Also in the same courthouse, of course we had the District Attorney’s office, so watching the District Attorney’s office function, so those things were very interesting; an
experience that not very many students get. So I really liked that. And then the other thing that I, that really I failed to appreciate, the Judge that I worked for was known to be rock, rib tough. Nobody was late; you stood when you addressed the court. He was a no nonsense guy. I just couldn’t understand why lawyers would ever be late to court or anything like that until I started practicing law. And I would be walking across the street and some client would stop me and want to talk and you know that sort of thing and I learned that judges need to be patient with lawyers too. They all, everybody has a lot of demands on their time.

**KEK:** That’s right. What were your plans after law school?

**TJM:** Well first and foremost, we were expecting our first child. So we’d been married four years and we were expecting a child. My wife was teaching school, she got a degree in education in the first two years we were there. And then she taught my final year in law school. And this is another thing that seems almost ridiculous in looking back on it but if they knew you were pregnant, they didn’t want you to teach. And it was, so today, you know, nobody would tolerate that. But I remember the angst that we had about whether or not, when her clothes began to get tight and she was having to think about what to do. And we needed the money. So our first child was going to come in the month of September and I was going to graduate in May. So she would be five months pregnant or something. Anyway I remember all the anxiety about that, but I had to tell you that long story to get to this point. My goal in life had really been to go back to my hometown and practice law. So I had some offers from some lawyers who were in small firms there. So I knew when I graduated I was going back to Alva where we had gone to college, where we had gotten married and I was going to practice law there.

**KEK:** Why did you want to go back to Alva?

**TJM:** I guess at the time I really thought that the, that it provided a lifestyle I liked. By that time I knew some of the small town lawyers. I liked that in terms of family life, what it provided. I thought it was a great place to raise kids in an environment; we wanted to have a family and where you know the people. More than any other single thing at the time I really felt like the most important thing to me in practicing law was that connection to the client; somebody that I knew walking in and asking me to help them. Not knowing whether they had a problem that was a contract, tort or property just “Let me tell you what happened to me, what do I do?” And being a part of their life and feeling like you’re helping them solve their problems. I thought that interaction, that personal interaction, I liked that better than the research in the library, the working in corporate America where you might never see who the client was; but just send a bill to Kerr-McGee.

**KEK:** Right. Now how did you accomplish your goal of connecting with the clients? Where did you end up in Alva, with what kind of a law firm?
TJM: Well I would say that in county seat law practices all over America, it would be hard to specialize. So in most small firms, individuals came together who liked different things about practicing. So I did everything, whatever walked in the door. But I had a couple of partners who preferred business transactions, banking and so I ended up doing most of the litigation. And doing the, I don’t say, I’m not suggesting litigation in the sense of major class actions of where you travel around the United States. But more of going to the courthouse everyday with something going on there, but I did everything that there was to do in a small town law practice. So we handled probates and divorces and adoptions and everything like that.

KEK: What kinds of qualities do you think are important for a person if they want to be a litigator?

TJM: Well I think it probably helps to have a competitive streak. I think that sometimes that can be overdone of course and I think that there has to be, one of the things that you hope that is instilled in every student in law school, is that it is a profession that serves. And that it serves not only the client, but the administration of justice. That winning isn’t everything. On the other hand, I think people who are more competitive make better litigators. And I marvel at some of the students I see here at our school, not law school, but in music and dance that are not necessarily competitive with each other but they just love what they are doing. And I was in a competitive environment playing on athletic teams, it instills in you a sense of competitiveness I think. So that’s why I tend to go towards litigation.

KEK: And how long were you there in Alva?

TJM: I’m going to say 15 years and we left the year my oldest son was a senior in high school. So it was about, 15, 16 years. And I loved it.

KEK: And tell me, if you can remember at this point, were there any sorts of memorable cases?

TJM: Oh yeah. You know, sometimes the most memorable ones were ones not necessarily the ones you made the most money on. While I was there, a very prominent lawyer in our state, who of course was a lot younger then, named Stephen Jones in Enid sued the university. This was in the late 60’s and there was a lot of litigation going on about, there was a developing school law and it had to do with students’ rights and could you tell them how to dress, could you tell them how to cut their hair, all that sort of thing. And the small university there was sued by Stephen Jones by a particular student who had long hair, because the school would not admit him to the teacher education program. So he filed a lawsuit in federal court. At that time a classmate of mine named Larry Derryberry was Oklahoma’s Attorney General. And he had around 25 of these cases pending around the state and so he was hiring outside counsel, so the university hired me to represent them on this case. And it turned out to be a very memorable one. And so that was fun.
KEK: What was the outcome of that case?

TJM: We didn’t have to admit him to teacher education. It was a, I’ll not bother you with the details, but it was much more complex than just the length of his hair. I mean this was a guy who would come to school with, you know in 1968, not wearing a shirt, having a tattoo with a four letter word on his arm to teach elementary children. So it was a, but the rules we had to live by were, I mean it was a pretty hard case to prove because fact is he was a terrific student. And he met, you know, he had all the test scores, he had completed all the degree work. I mean he had done everything but in that day and age it was pretty hard for anybody to find a place to place him and do their student teaching because he was a rebel. And I don’t know whether we’d have the same result today but the most interesting thing about the case was it was in federal court and both Stephen Jones and I were both scared to death of the Judge and the outcome. So we agreed on a process outside the judicial system to reach a conclusion. We agreed that we’d try the case to a panel of three people, the Dean of Education at the University of Oklahoma, the Dean of the School of Education at the Oklahoma State University, and a District Judge from Guyman, Oklahoma named Earl Langstrom. So we tried this case for three or four days before this panel of people and they finally found in favor of the university. But it was so unusual that it was interesting.

KEK: That is unusual. How did these three folks get to be selected?

TJM: By agreement of the parties, Stephen Jones and I agreed on them. I wanted a different District Judge. I wanted our District Judge in Alva. He wouldn’t agree to that, but we each agreed on people we knew would be non-partisans in these Deans of these Schools of Education.

KEK: And then you obviously agreed that whatever judgment they came up with would be binding?

TJM: We did.

KEK: Okay. Very interesting, very unusual.

TJM: Yeah. Well one of the things that it did was get us to a timely resolution, because the young man if he wasn’t going to get admitted to teacher education then he needed to take some other courses and do something else. Get himself prepared to do something else and so the timeliness of it, it was in his best interest too and the university’s.

KEK: Absolutely. What brought you, what took you away from Alva?

TJM: Well an unexpected opportunity. I guess I would best say it this way, I absolutely would have been happy staying in Alva the rest of my life. I love practicing law and I loved the clients that I had. Small town practice is something where the hardest years are the first years. I mean it’s hard to get established. It’s hard for people to go hire that young lawyer for the first time. So
kind of the rhythm of a small town law practice is the longer you’re there, the more clients you
build up, the more money you make. So leaving was a big decision because I was really at the
prime of my law practice and probably might have made more money by staying there. But two
things occurred. During the 1960’s there was a court scandal in Oklahoma, a Supreme Court
scandal. There was a Judge named Earl Welch who had a son named Jerry Welch who was in my
law school class. There were justices who pled guilty to taking bribes. That caused a revision of
our whole court system and created a system that had an Administrative Director of the Courts
for the State. Justice Opala, graduate of OCU, now a Supreme Court Justice was the first
Oklahoma Administrative Director of the Courts. He then went on and became a Judge and they
appointed a guy named Marvin Emerson who happened to be from my hometown. He then
decided to leave that job and become the Executive Director of the Oklahoma Bar Association
and he suggested my name to the court; the Oklahoma Supreme Court picks this person. So I got
a call asking if I would be interested in coming down for this interview for this job. My wife,
who was a very adventuresome soul, and is always interested in what’s over the next hill said
“So why don’t you do it? You haven’t interviewed for a job in 20 years. It’d be a good
experience” and so forth. So I came down and interviewed for, and in fact I had called and said
“Gee, that isn’t going to work out for me, I don’t think I want to do that.” The Chief Justice was
a guy named Pat Irwin who also was from western Oklahoma, Leedy, he said “Tom come down
we want to talk to you about this.” So I came down, I interviewed with the nine Justices of the
Oklahoma Supreme Court. And frankly I thought I answered every question wrong. They said
“Now, a big part of this job is to administer the budget for the whole state and to lobby with the
legislature. Do you know any of the legislators?” I said “No, not really, now I have been
involved, I know my legislator more than anybody else.” And they said “Well, one of the issues
that’s coming along is how we advance technologically in the courts, do you know
anything about that?” I said “No I don’t know a thing about that.” So I came back home that evening and I
said “Well, it was fun.” I mean really, it was a great experience because I hadn’t even met all
the Justices of the Supreme Court and walking in and being interviewed by them was really kind
of a fun experience. And I said “I answered everything they asked, I answered honestly, but I
think I answered every question that they asked wrong.” So I wasn’t thinking about a thing. The
next morning about 6:30, I get a call from the Chief Justice who was an early riser obviously. I
was still in bed and he said “Tom, this is Pat Irwin, Oklahoma City.” And I said “Yes sir, yes
sir.” He said “We’d like for you to come down and be the Administrative Director of the State
Court System.” And I said “Well you’ve got to be kidding Mr. Justice, I am shocked about this.”
He said “Yes, when could you be here?” And I said “Well let me think about this, I’ve got a law
practice going on” and I said, this is like the first of December of 1981. I guess that identifies
how long I was there, 15 years. I said “I think I could be there in six months. I think I could be
there July the 1st.” He said “Well we’d like you to be down here at the Bar Association meeting
on December 15th, we’d like to introduce you.” And I said “Well I’ve got to talk to my wife and
I’ve got to talk to my partners and I just, I don’t know that I could do that.” He said “Well we’re
going to make it easy for you.” He said “We’ll let you finish your law practice up. We want you
for the job and we will give you the job and we want to introduce you at the Bar meeting and then you take whatever time it takes for you to finish up your practice. And you come down a couple of days a week and help us get organized and you take whatever time you need. But we’ve decided and that’s what we’d like for you to do.” Well of course, so I told my wife and she said “Great, let’s go try it.” And we had a new house with a swimming pool and I was shocked. We had three sons, one was going to be graduating from high school, he was a senior in high school, one that was in the 8th grade and one that was in the 6th. Anyway it was a big deal for us. So ultimately I did; I came down in December of 1981. My wife stayed in Alva. The kids finished school and then in the summer of 1982 we moved down here. And it was a huge thing. I had underestimated the difference in cost of living. We definitely were not rich, but we were getting along quite well, had a nice home and everything in Alva. And down here you know lunch cost more than dinner did in Alva. So it was a culture shock for us, but it was an interesting time. And so we moved in the summer and I began working as the Administrator Director of the Courts.

KEK: That just sounds incredible President McDaniel. What was that interview like with the nine Justices?

TJM: Well they asked me a lot of questions about what I believed, about the administration of justice. They asked me what improvements that I thought we could make to the system. And I answered probably the same way you would. I said “You know the absolute number one thing is that society has to believe in the integrity of the system. And if we don’t have that, we don’t have anything. And it doesn’t matter what the budget is, or…if we don’t have that, we don’t have anything. So I think the number one goal ought to be to restore the public’s faith in our system. So that when there is not a 100% belief, but a consensus, that if they go…that if their disputes are taken to the judicial system, that they will be treated fairly. And that they are willing to, although they don’t like the result, accept it.”

KEK: Absolutely.

TJM: And so I guess some part of that they liked. But the rest of it they didn’t. I didn’t know any influential people and I didn’t know anything about technology. Other then I had a really good legal assistant who knew everything about IBM and doing all that stuff and I didn’t do any of them. So…but this was of course an age long before today’s computer systems.

KEK: Tell me about your responsibilities there.

TJM: Well, I had a role under the judicial, the office of judicial complaints. But the absolute main thing was to try to get enough money to run the court system and to make sure what went through the legislature didn’t adversely impact that. So more than anything it was paying attention to what was going on in the legislature, trying to be kind of the liaison between the court, the Legislative Branch and the Executive Branch. The Chief Justice and the Judges, the
Chief Justice office which rotates in Oklahoma, is responsible for the administration of the courts. So I reported to that person. But they wanted to stay up out of the fray. They did not want to be involved in lobbying or having to crawl in and ask for permission for their budget. So I crawled in for them. And those sorts of things, so it was, and then there was of course a relationship with the Executive Branch in that with the new court system that we had came a different way of selecting judges. By this time we had the Judicial Nominating Commission and I was charged with the responsibility for basically staffing that effort. And then those names were submitted to the Governor for appointment…so all those relationships.

KEK: And how long were you there as Administrator?

TJM: Not very long. I was there for, I came in December of 1981 and I left in 1984. So I was there about three years. A couple of things happened. One was that it became clearer to me that if I was ever going to send three kids to college I was going to have a hard time doing that working for the state and so I began to think about other things that I might do, including going back to Alva to practice law. And again kind of a fortuitous circumstance came along for me in that a fellow that I’d gone to high school with called me and said he worked at Kerr-McGee Corporation. Are you familiar with Kerr-McGee Corporation?

KEK: Yes.

TJM: Well it was at that time maybe one of the, one of…and if not one of the largest companies in Oklahoma and it got sold out to Anadarko. They were looking for a person to be Associate General Counsel in charge of litigation and they were anticipating that the Silkwood case would be returning for a new trial. It had been on appeal to the United States Supreme Court. They had lost it in the federal court here and he said “We’re looking for somebody that understands the court system and judges and we’re looking for someone, not necessarily to try the case, but to manage the case because it has been a nightmare for the company.” So I thought it sounded like about the most intriguing opportunity to be involved in really one of the landmark cases in Oklahoma history. And I didn’t know anything about it and I sure didn’t know anything about nuclear fuel rods or anything like that, you could imagine how much I knew about that. So I said to my wife “Well if we do this, we’ll stay here in Oklahoma City but the failsafe is I can try it and if it doesn’t work out or if we don’t like it, we can always move back to Alva and practice law.” And so the comfort of having that law degree and the comfort of knowing that I always had a place to go back to made me more willing to try something new. So it looked like a chance, when I turned in my resignation to the members of the court they said “Are they going to pay you more?” and I said “They’re going to pay me the same amount, but they are going to pay me twice as often. So basically I’m going to make twice as much.” And so as a guy who was married and had three children, twice as much money was an attractive option. And the Silkwood case was intriguing. So I left the Court Administrator’s office and I went to work at Kerr-McGee Corporation.
KEK: Wonderful. Well I think, let’s go ahead and take a break and then we’ll continue on with our second half.

TJM: Okay.

KEK: Hi this is Karen Kalnins again and I am a Reference Librarian at the Oklahoma City University Law Library. And it is still Friday, April 17, 2009. It’s almost 2 o’clock here in the afternoon. And I’m still here with President Tom McDaniel. He is the President of Oklahoma City University. And in the first half of this interview he talked about how he came to become a lawyer and how he ended up at Kerr-McGee Corporation. And now I wanted to ask you President McDaniel, tell me more about the Karen Silkwood case.

TJM: Well the Karen Silkwood case had been tried several years before and a verdict rendered for the plaintiff, which was a, her father was Bill Silkwood who was suing on behalf of her children, she had two children. And it was tried and a verdict was entered for personal injury, property damage and punitive damages all in the amount of several millions of dollars. It went through the appeals process and was overturned and was sent back for a new trial. And that’s when I entered the picture. So all of that had happened before I got there. And at least internally at Kerr-McGee I, Mr. McGee had just left the Chairmanship and a new fellow named Frank McPherson had become Chairman. He is the one who had called me and asked me to come to work at Kerr-McGee and had basically handed me the ball about what do we do about this. And from a lawyering standpoint it was kind of interesting in that we knew that the case had been tried by Gerry Spence before who was a, I going to say a very capable, bombastic, colorful trial lawyer from Jackson Hole, Wyoming. They had had a fair amount of success but probably an equal amount as in the courtroom. The lawyer who had tried the case for Kerr-McGee had left the firm and was now General Counsel for Phillips Petroleum in Bartlesville. That would be Bill Paul. And we knew we were going to have the same Judge, Frank Tyce who had tried the case before and who, at least in the judgment of the Kerr-McGee lawyers, had let Spence run over us in the courtroom and was very liberal in his rulings. I’m not saying anything wrong; I’m just saying a loser’s interpretation was they ran over us. And so, lots of decisions were being made about who would we get to try the case this time, did we want to try the case this time and but more than anything to try to elicit from Mr. McGee, the Chairman emeritus of Kerr-McGee, some sense of how can we dispose of this case. So I ultimately went to Mr. McGee and said “This is not a lawsuit. This is a public relations disaster. And we have a lot of money invested in the nuclear business and it is going to set the nuclear business back 25 years. I would like to bring you a plan for settling the case because we need to get this over with because whatever we do in the courtroom, we are going to get kicked in the public relations realm. Gerry Spence is going to call a press conference every day and he’s going to be really good at it. And we’ve got the short of this case in terms of public relations.” He basically had maintained from the beginning that we did nothing wrong, I’m not paying them anything. He would not authorize a settlement of any amount. And so he said “Okay, bring me a plan.” And so I brought him a
plan, I don’t know how much of it you want to hear, but here’s the plan. We are never going to get settled with the public interest lawyers; Gerry Spence and those guys want to try this case and we will never, ever get it settled with them. So what we need to do is locate whoever is the guardian of Karen Silkwood’s children and we need to offer them enough money to change their life. And if we do, then we’ve got the public interest lawyers verses the lawyers for the children who are going to want the money and the only way we’re ever going to settle this case is for the lawyer for the children to say, “We want this money.” The people who just want to make a cause out of this would be in a hard position not to step aside. So we found out that the children lived in Ardmore, Oklahoma and that they had a guardian who was a man of much stature in our state named Mike Massid. He was a former Commanding General of the 45th Division and had a reputation that was impeccable in our state. So I went to see Mike Massid and said “Mike we will pay you a million dollars today for those children. They are now 12 and 14. We can fight about this for another ten years and you might get some money, but it isn’t going to make any difference in their lives. Their course is going to be set and we want to offer you enough money to get them a great education and to get set up in whatever kind of a business that they want to get set up in and we want to get this behind us.” And he came back later and said “Well the public interest lawyers say that their agreement was that they wouldn’t get paid unless we got money, but if we settled the case we had to pay them their fees and their fees are going to be $400,000. And so if you want to give us $1,400,000 then we will, from my viewpoint…then we’ll settle the case.” He had a wonderful lawyer in Ardmore, Oklahoma named Bert Morty whose son still practices there. So we met with Bert Morty and Mike Massid and they said “We will take a million four to settle this case.” And I said “We’ll have it for you Thursday morning.” And we settled the case. We had engaged a big public relations firm called Hill & Knowlton in Chicago and New York and they had been working on the case for us. And their advice was “Call a press conference, settle this, you got to coordinate this because it’s got to be done, it’s got to be approved by the court in Ardmore that oversees the guardianship and the Federal court.” So it was a very complex settlement time, but they said “Settle the case, call a press conference and tell them that the case has been hotly contested, but that we’ve agreed on a settlement and that we’re putting it behind us in the history of Kerr-McGee and then don’t ever mention it again as long as you live.” So that’s exactly what we did and we settled the case. Now I say this in rather short order, all this took maybe 18 months to get all this done. But the interesting part was, of course the public interest lawyers did not want to settle it. They wanted to try it. But the client wanted the money. So that’s how it happened.

KEK: That is just fascinating. How do you think settling that case, such a notorious case, how do you think that that helped the company?

TJM: Well, I think that no matter, there are some things that happen in business, that no matter what the relative merits are, that it is bad for the company. And if you have a lawsuit like that, one which not only did I think it might inhibit the progression of the nuclear industry, it did. It
changed that dynamic and it has not survived to this day. Now I’ll just editorially say, that probably in your lifetime we are going to see the proliferation of the use of nuclear power because it makes imminent sense. I mean it is, it can just produce so much more energy than anything else we are using that ultimately mankind will have to do it. But Mr. McGee believed we’d do that 25 years ago and it hasn’t happened and the Karen Silkwood case was a major part of it because it scared people about contamination. The making of fuel rods, what happens if, as Gerry Spence said in such a riveting way at the trial “If you let the tiger out of the cage, you are responsible.” And in this instance that’s what happened. That’s how Karen Silkwood got, some believed she might have contaminated herself, but I don’t believe anybody would do that. And so somehow she got contaminated.

KEK: Right.

TJM: So I would just say, I think it changed the course of the energy future of the United States in terms of decades. But settling the case for Kerr-McGee, we got the case behind us. We sold the nuclear business, drilled a lot of oil wells, and did a lot of good stuff. People started loving us again.

KEK: True enough, true enough. Now after the Karen Silkwood case, what other kinds of things did you do at Kerr-McGee?

TJM: Well I then became General Counsel and then became the Vice-Chairman of the Board, so eventually got involved more in management than dealing with all the cases that we had. But Kerr-McGee had, I guess if there’s anything that Mr. McGee hadn’t anticipated it was the environmental revolution. Kerr-McGee had been in a lot of businesses that have an environmental impact and so I spent an awful lot of time working on environmental things from businesses that Kerr-McGee had been in years before. As you may know, under the Superfund Act basically if you acquire a company, that acquired a company that acquired a company, if you are in the chain of ownership for some act that could hurt the environment, even though you didn’t do it, you could be held jointly and severally liable. If you were the only survivor, you could have 100% of the responsibility and 100% of the cost. And we had a good number of those and just one business that I’ll tell you about. Kerr-McGee, Mr. McGee bought all of the tie treating, many small mom and pop tie treating plants across the country and they were spread virtually across the country in the 1800’s when the railroad was being built. A tie treating plant is putting creosote on a railroad tie. And of course in the 1800’s they didn’t pay much attention to that, they just poured the creosote on it. Well enter us 100 years later and by this time that creosote was getting down into the aquifer. And so all across America we had environmental cases, we’d had nothing to do with it, other than we’d bought these companies. Of course by the latter part of the 20th century why you had concrete things…I mean everybody was doing it in an environmentally safe way. But we were held responsible for those bad practices from 75 years before and most people were out of the business. So mom and pop sold
their business to Kerr-McGee and mom and pop were long since gone, had taken the money. So I spent a lot of time and those things were always charged. They were a complex mixture of regulatory law, litigation, political sensitivity and public relations. I’ll tell you one more story and then I’ll, that was the most interesting thing that happened after that.

KEK: Yes, I’d love to hear it.

TJM: Oh, I’ve got a lot of, I worked on one case in Illinois that we spent $500,000,000 on it to move some low level radioactive material from Illinois to west of Salt Lake City. But it took, I worked on it every day, I was at Kerr-McGee for 20 years. But the most exciting and interesting one was something that didn’t happen on our property. We made a product called titanium-dioxide. At this same plant we made something called ammonium perchlorate. Are you a chemist?

KEK: No, no I’m not.

TJM: Neither am I. Well ammonium perchlorate is an oxidizer that is used to make things burn faster and we sold the product either to the Department of Defense or to NASA. NASA uses it to cause something to burn really fast, for rockets to go and the Defense Department used it for bombs. And there are only two companies in the western hemisphere that made this product. So they got it all. We made this product at Henderson, Nevada which is about 12 miles from the strip in Las Vegas. And one day and our only competitor in the world was about four miles away. And one day their plant blew up and killed some people. I don’t know whether you would make this connection but having something that scared people very close to the strip in Las Vegas was something that the Governor of Nevada did not take a liking to at all. So as a result of this we, I flew on the company plane to Nevada and spent two months there trying to sort out: a) could we keep this plant open? And the interesting part was that the Governor of Nevada said that “If you don’t close this plant, I will call out the National Guard.” And the Defense Department said “If you close this plant we’re going to nationalize this, because we’ve got to have this for national defense.” So it was just about the most interesting thing to be involved in. I had a lot of help at Kerr-McGee, but I went out there and stayed two months and met with local housing folks and local politicians and the city commissioners. And of course I don’t have to tell you, tourism is big business. So I called our Chairman and said “We need to shut this plant down.” And he said “It will cost us a $100,000 a day.” And I said “It doesn’t make any difference what it costs, we have got to shut this plant down. We’ve got to get in a group of experts here, a blue ribbon panel from across the United States. We’ll get the Governor to adopt this panel. We’ll have them come in here and look at it and we won’t open it up until they say it’s safe. And when they say it’s safe, we’ll open it.” So we did and I, this all took a long time, but it was the most interesting thing that happened to me during that period of time. And so we did that. We called people from DuPont and chemical engineers from all over the world. They went through our plant and if they said something was wrong, we fixed it. And it took about 30
days. Then we called the Governor and said, “The panel says we can open, we’re opening.” And he said “Okay.” So we opened. But part of it was going back and forth to the Pentagon with them telling us “If you close this plant, we’re going to nationalize it.” I said “Well that’d just be great, go ahead because we’re not going to open it and if you want to assume responsibility….” because there were housing additions all around us. And we said “If you want to run it, run it. We’d be glad to let you have it.”

**KEK:** How difficult was it to oversee these types of negotiations between the state government and the federal government and you all sort of being in the middle of all of this?

**TJM:** Well, for me it was challenging and interesting and the great part of it was, that not every lawyer has the luxury of is that I had any kind of help that I needed. I mean if we needed an airplane, we had it. If we needed to hire an expert from Canada, we got him. Money was not an issue. I mean we had the money to do it right and there is a certain liberation about that because in my small town practice that was never the case. I mean, could the client afford the depositions, could we hire a forensic expert? All of those things were always a factor. But in these kinds of cases like *Silkwood* and what I call the *Henderson Plant* cases we had the wherewithal to do it any way we wanted to and that’s fun. When you are able to take a very complex problem that you have a lot of really smart people helping and the money to get them in there.

**KEK:** Absolutely, absolutely. Why, how important of a role do you think the environment started playing for Kerr-McGee and having to comply with all these environmental regulations?

**TJM:** Well I think it was huge. I mean, I think that industry had had their way for decades. And I think that, I mean if you look across America virtually every logging camp, every chemical plant was built on a river. And it wasn’t by happenstance. I mean they were pouring their waste materials into those rivers. It wasn’t, I don’t just say Kerr-McGee, but I’m just saying all across the country. And I think that as a society we came to the realization that we can’t continue this. I mean, I think our environmental plan for literally centuries was “Yeah the solution is dissolution; just mix it with everything else and let it flow out to sea.” But ultimately we have to do better. And I think that companies like Kerr-McGee realize that and I just say Dow Chemical and a good number of those people who really pay attention to this, because they depend on the environment for a living. So they have got to take care of it. But it was transformational as far as Kerr-McGee was concerned.

**KEK:** It sounds like it. And how did Kerr-McGee end up being sold to another company?

**TJM:** That happened after I left. So I don’t have any inside information about it, except that I was a shareholder, so I was interested. So the answer is that at that time the oil industry, the oil prices were not great. And there, as happens in every business when things are not great, there is consolidation. So Anadarko I guess saw the value of Kerr-McGee assets, matched that up with what their capitalized value was in the public market and thought that they could pay a premium
for what the share prices were which they did. I don’t really even remember the numbers, but if the share prices were at $50, they offered $75. And if you’re management and your goal is to take care of the shareholders, it’s pretty hard to say no. I just say philosophically that’s what happened; I don’t have any inside information about it.

KEK: Fair enough, fair enough.


KEK: And what did you, what was your plan after retirement?

TJM: My plan was to retire at the end of December 31st and I was really thinking that I might do some volunteer work or something like that. I’ve had a son that’s a lawyer and he asked me if I would practice law with him. I was a little nervous, because by this time it had been, you know 30 years since I had really practiced and I would be nervous about that. And during the spring of that year the President of the university where I had gone to school at Northwestern announced that he was retiring that spring. And some friends of mine who had gone to school there and then lived in Alva called me and said “We’d like to submit your name to be President of the university here.” And take into account Karen, my only connection with universities had been to contribute or serve on advisory boards or something. So I had not, so I had no academic experience and ultimately they submitted my name. The Board of Regents asked me to come in for an interview and it was sort of like that interview with the Supreme Court. I think everything I told them, do you have any experience, what do you know about this and what do you know about that? Really I didn’t have any experience, so I certainly didn’t try to tell them anything I wasn’t. But ultimately they named me President of Northwestern, which wasn’t a goal for my wife and me to move back to Alva from Oklahoma City. And in fact was quite a change for her and me too. But they had never had a graduate serve as President and they were about 110 years old. So it was a, kind of a yank at my heart strings to do something that no one else had ever done. So I agreed to go back. I had been there just less than a semester when I got a call from Oklahoma City University that said “Our President’s leaving, would you consider moving here?” Basically I met with the Executive Committee of the Board and really did not want to. I felt badly about not staying at Northwestern more than a year and there were a lot of friends that had really gone to bat for me. As important as Oklahoma City University is to Oklahoma City, in rural America those small regional universities, they are everything. I mean, it’s the Chamber of Commerce, it’s how you, what do you do about roads, I mean it’s everything. Not everything, but it’s a big thing. Being President of a university there you’ve got to help the community. I mean it is the community. And so I felt, we had some reluctance to leave after only one year because, but at my age, I was 62 at the time and at my age I’d thought I would stay three years. Anyway the temptation to come here was overwhelming because we’re Methodists, this is a Methodist university. We have three sons, they all live here. We now have five grandchildren, they are all here and my wife loved it here and so did I. And we were connected to the business
community here, we knew, we’d been active in the Chamber of Commerce, a lot of the things going on in town. So we knew a lot of people here and that was an attractive thing for our Trustees. Anyway they offered me the job to come here and I came here thinking I’d stay two or three years. It will be eight when this school year is over. And I have loved it. So that’s my story.

**KEK**: That is incredible. What continues to motivate you? Why do you stay on?

**TJM**: Well, you may know by now, that I have told the Trustees that next year will be my last year. But what has motivated me to stay on is the sense of purpose that I get. I’ve never been in a job related thing where I’ve had the connection that you get with students here. It is the students. I think…I really feel like we’re doing something here that counts. I think a university is a place where values and knowledge is passed on from generation to generation. And I think that’s inspirational. And as long as I have my health it has been good and I have felt good. And my energy level has been good, I have loved the students. I have learned a lot and have loved the faculty. Because I’d never had, I mean the academic community operates in more of a shared governance pattern then you would see, then I’ve ever experienced. And trying to get something done is like steering a battleship then a speed boat. And I have come to believe that is good. I did not think that was good when I first came. But I’ve learned to think that that is a good thing because institutions are here for a hundred years and change ought to be carefully thought about and processed. And the one great thing about the university is, it is basically full of really smart, well-educated people, who have good ideas. And while we don’t all agree on everything, when you have that kind of an asset it would be senseless not to use it…so engaging the faculty in the governance of the institution, getting to know the students. We’re a small university. My wife and I have monthly dinners for students. And frankly, I know an awful lot of our students here and one of the reasons is that I go to what they do. I mean, I go to all the ball games, the music, the dance. I don’t do it because I think my job demands it; I do it because I like it. I mean I like this stuff. And so that makes, and so that’s what keeps me going.

**KEK**: That’s wonderful.

**TJM**: And I’ve decided to leave because I’m 70 and I think change is good for a university. I think that at some point, I just think it’s good for a university to have new ideas, new leadership and that you could get stale. So I will never retire from OCU because I love it. I’m always going to be connected, whether it’s in some work capacity or teaching or volunteering. But I do want to retire from being President and let somebody do the day to day.

**KEK**: Right, right. No it sounds like it, it sounds like it. Well I’m sorry to hear that you’ll be retiring, but it will give an opportunity to someone else.

**TJM**: To others. You bet. Absolutely.
KEK: Absolutely. Now you just mentioned that you like going to all these things and you enjoy them because of the students. Is there any kind of final advice that you would give to a new law student or a law student just graduating, coming out of Law School? What are your thoughts about that?

TJM: Well, two things. I think you do best what you love most. So pick something to work on that you love because it won’t seem like work to you if you do that. And then the other thing I would say is that I have come to believe, perhaps just because of my own experience, that a legal education prepares you to do a lot of different things. So be open for the possibilities. For some people it could be public interest law, for some people it could be being a prosecutor. But whatever, wherever the opportunities take you, don’t be afraid to change because your legal education is going to stand you in good stead in a variety of ways. It is not just practicing law.

KEK: Good advice, good advice. Do you have anything else President McDaniel?

TJM: Well I appreciate you interviewing me and I am excited about this, about this program that you are working on. And I’m flattered that you would talk to me. Thank you.

KEK: Well thank you. Thank you so much for your time. I know you are a busy person, so thanks for making time in your schedule.

TJM: You bet.